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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,773	06/25/2001	Warren W. McAlpine	A1084	8774
21495	7590	11/17/2003	EXAMINER	
CORNING CABLE SYSTEMS LLC			HYEON, HAE M	
P O BOX 489				
HICKORY, NC 28603			ART UNIT	PAPER NUMBER

2839

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

11

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/888,773	MCALPINE ET AL.
	Examiner Hae M Hyeon	Art Unit 2839

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 June 2001.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-89 is/are pending in the application.  
 4a) Of the above claim(s) 57-89 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-56 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 25 June 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
 a) The translation of the foreign language provisional application has been received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2,3</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of the invention Group I is acknowledged. The traversal is on the ground(s) without any reason. Furthermore, the examiner clearly stated the reason for the restriction in the First Office Action.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

2. The drawings are objected to because the reference number “16” in upper left side of Figure 1 should be -- 26 --. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities: On page 3, line 7, the examiner suggests the applicant to insert -- common -- in front of “central strength member 16.” Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4-22, 25-41 and 44-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nilsson et al (5,268,971) in view of Schwartz (6,482,512 B1).

Nilsson discloses a fiber optic cable 10 comprising at least one binder thread 22 encircling a plurality of optical fibers 16 to maintain the plurality of optical fibers 16 in at least one non-jacketed bundle 12 and a cable jacket 38 surrounding the at least one non-jacketed bundle 12 of optical fibers 16. The fiber optic cable 10 also includes a separation layer 28, 32 or 34 disposed within the cable jacket 38 and surrounding the at least one non-jacketed bundle 12 of optical fibers 16. Nilsson also teaches color-coding of the bundles for identification (see column 3, lines 20-25). However, Nilsson does not disclose a material property of the binder thread 22 as recited in the claims.

Schwartz discloses a thread comprising an air entangled, textured, continuous multi-filament thread. However, Schwartz does not disclose the number of twists per inch in the thread. Furthermore, claims 4-22, 25-41 and 44-56 recite other types of materials for the binder thread. Since the number of twists per inch in the thread is also a type of material and the instant invention does not provide any reason or a specific problem to be solved by having the materials recited in claims 1, 4-22, 25-41 and 44-56, it only deals with the use of a preferred material because the function of the binder thread, binding the plurality of optical fibers, does not change or affected by the use of the materials recited in claims 1, 4-22, 25-41 and 44-56. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the fiber optic cable taught by Nilsson such that it would have the binder thread as taught by Schwartz because it only deals with the use of one type of a thread over the other known type of thread which does not change or affect the function of the fiber optic cable of Nilsson.

6. Claims 2, 3, 23, 24, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nilsson et al and Schwartz as applied to claims 1, 4-22, 25-41 and 44-56 above, and further in view of Carter (5,165,003).

Claims 3, 24 and 43 recite that the binder thread having a looper thread and a needle thread being secured to one another by a plurality of overlocked stitches.

While Nilsson does not disclose the method of stitches of the binder thread, Carter discloses a bundle of optical fibers 16 being secured by a plurality of overlocked stitches using a binder thread 18. Thus, one binder thread has to be a looper thread and the other binder thread has to be a needle thread.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the fiber optic cable taught by Nilsson such that it would have overlocked stitches to secure the bundle of optical fibers as taught by Carter because optical fibers would be more securely bundled together.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 4,725,453 by Nakasone et al., US Patent No. 5,184,381 by Coons, III et al., US Patent No. 6,088,499 by Newton et al., US Patent No. 6,321,012 B1 by Shen and US Patent No. 6,574,400 B1 by Lail.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hae M Hyeon whose telephone number is 703-308-4802. The examiner can normally be reached on Mon.-Fri. (8:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn D Feild can be reached on 703-308-2710. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

**Any response to this action may be mailed to:**

**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**

For additional information regarding this new address, which was effective May 1, 2003, see *Correspondence with the United States Patent and Trademark Office*, 68 Fed. Reg. 14332 (March 25, 2003).

**Or Faxed to:**

(703) 308-7722 or 308-7724  
(Informal or draft communications should be clearly labeled "PROPOSED" or "DRAFT")

**Hand-delivered responses** should be brought to:

Crystal Plaza 4, Fourth Floor (Receptionist)  
2201 South Clark Place, Arlington, Virginia.

Hae M Hyeon  
Examiner  
Art Unit 2839

hmh

hmh

Hae Moon Hyeon